

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 01-0089P

Gross and Adjusted Gross Income Tax
Calendar Years 1996 and 1997

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer is incorporated under the laws of Minnesota and has one business location in Indiana. Upon audit it was discovered that the taxpayer failed to correctly report its gross and adjusted gross income. Other errors in taxpayer's filing are also noted in the audit report.

I. **Tax Administration** – Penalty

DISCUSSION

Taxpayer was assessed a penalty for failure to correctly report thirty-two percent (32%) of its income in 1997. The primary issue is the reclassification of nonbusiness income to business income for interest and royalty income.

Taxpayer, in a letter dated September 26, 2000 protested penalties assessed because it feels it had reasonable authority for taking the positions it did. Taxpayer states that its filing positions do not suggest negligence or an attempt to willfully avoid its filing responsibilities. It requests consideration in abating the penalty.

The audit revealed that the taxpayer failed to remit approximately thirty-two percent (32%) in tax for 1997. The primary issue is the royalty business income that the taxpayer classified as nonbusiness income. Although other adjustments were minimal due to the size of the corporation, several errors netted out major differences. Taxpayer has not provided reasonable cause to allow the Department to waive the penalty.

FINDING

Taxpayer's protest is denied.